



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/374,043	08/13/1999	MICHAEL D. ELLIS	UV-97	3248

7590 07/14/2004

G VICTOR
FISH & NEAVE
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 100201104

EXAMINER

LUU, SY D

ART UNIT

PAPER NUMBER

2174

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/374,043	ELLIS ET AL.
	Examiner	Art Unit
	Sy D Luu	2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 6 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 09 April 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-5,14-24,33-43 and 52-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 14-19, 33-38 and 52-56 is/are allowed.
- 6) Claim(s) 1-5,20-24 and 39-43 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/9/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. This communication is responsive to the Amendment filed 4/8/2004.
2. Claims 1-5, 14-24, 33-43 and 52-56 are pending in this application. Claims 1, 14, 20, 33, 39 and 52 are independent claims. Claims 1, 14, 17, 20, 33, 36, 39 and 52 were amended. This action is made Final.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

4. Claims 1-2, 4-5, 20-21, 23-24, 39-40 and 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. (“Alexander”, US 6,177,931 B1) in view of Naimpally (US 6,020,880).

As per claims 1-2 and 4-5, Alexander teaches a method for use in a client-server interactive television program guide system comprising:

providing a user with an opportunity to define user preferences using an interactive television program guide client that is implemented on user television equipment, without requiring the user to navigate the Internet (col. 28, lines 10-21 and col. 29, lines 56-59);

providing the user preferences to a program guide server (col. 29, lines 14-20; *head end*), and providing individualized program guide data from the program guide server to the program guide client according to the user preferences (col. 28, lines 22-24 and col. 29, lines 31-37), and generating a viewing recommendation based on the user preferences with the program guide

server and displaying the user preferences with the interactive television program guide client on the user television equipment (col. 30, lines 45-58); and

providing software to the program guide client and providing Internet links to the program guide client according to the user preferences (col. 8, lines 36-43; col. 30, lines 1-16 and col. 31, lines 9-18).

Alexander teaches all of the limitations as indicated above, but Alexander does not teach the step of providing the user with an opportunity to edit the user preferences that were previously defined. Naimpally teaches a method for providing an electronic program guide information to a television viewer, wherein program preferences contained in the viewer profile may be edited/updated by the user (col. 6, lines 48-57). It would have been obvious to an artisan at the time of the invention to combine Naimpally teaching with Alexander's method in order to provide users with a means for updating viewing preferences as desired.

Claims 20-21 and 23-24 are similar in scope to claims 1-2 and 4-5 respectively, and are therefore rejected under similar rationale.

Claims 39-40 and 42-43 are similar in scope to claims 1-2 and 4-5 respectively, and are therefore rejected under similar rationale.

5. Claims 3, 22 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. ("Alexander", US 6,177,931 B1) and Naimpally (US 6,020,880) in view of Herz et al. ("Herz", US 6,020,883).

As per claim 3, although Alexander teaches the step of providing a user with an opportunity to provide a plurality of preference attributes (col. 28, lines 10-21 and col. 29, lines 56-59), Alexander does not expressly teach said step to designate a preference level for the

preference attributes. This is what Herz teaches in a substantially similar environment (col. 13, lines 39-42). It would have been obvious to an artisan at the time of the invention to combine Herz's teaching with the method of Alexander and Naimpally in order to provide a means for further fine tuning the level or degree of preference.

Claims 22 and 41 are individually similar in scope to claim 3, and are therefore rejected under similar rationale.

Allowable Subject Matter

6. Claims 14-19, 33-38 and 52-56 are allowed.
7. The following is an examiner's statement of reasons for allowance. The prior art made of record fails to anticipate or make obvious the claimed invention. Specifically, the prior art fails to teach, in combination with the remaining elements:

the step of determining, with the program guide server, whether the programs found by the program guide server were not previously viewed on user television equipment; and displaying, with a program guide client implemented on the user television equipment, a display of program titles, wherein the display: includes the programs found by the program guide server, wherein some of the programs have been previously viewed on the user television equipment and some of the programs have not been previously viewed on the user television equipment; and visually distinguishes the programs determined by the program guide server to have been previously viewed from the programs that have not been previously viewed as recited in claim 14, and similarly recited in claims 33 and 52.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

8. Applicant's arguments with respect to claims 1, 20, and 39 have been considered but are moot in view of the new ground(s) of rejection.

Inquires

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sy Luu whose telephone number is (703) 305-0409. The examiner can normally be reached on Monday - Thursday from 7:00 am to 4:30 pm (EST). The examiner can also be reached on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (703) 308-0640.

The fax number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



SY D. LUU
PRIMARY EXAMINER